IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 195 of 2001

in

SPECIAL CIVIL APPLICATION NO 6716 of 1997

with

CIVIL APPLICATION NO. 3004 OF 2001

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

RAMANBHAI MAJITHIA
Versus
PG RAMRAKHIANI

Appearance:
MR PJ MEHTA for Appellant No.
MR ND GOHIL AGP for Respondent No. 1-3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE RAVI R.TRIPATHI)

1. The present Appeal is filed against the judgment and order dated 16-1-2001.

2. The grievance of the petitioner is that the Home Department issued a Circular dated 8-5-1996 whereby the District Development Officer, Jamnagar, District Superintendent of Police, Jamnagar and other Authorities were communicated that the name of the petitioner Ramanbhai Majithia, with immediate effect is placed in `black list'. The learned advocate appearing for the appellant submitted that the Government has no power or authority to issue such Circular. It is contended by the learned advocate that this Court by an order dated 24-10-97 in Special Civil Application had called upon the Authorities to place on record all the relevant facts on the basis of which the impugned order at Annexure E dated 24-7-1997 is passed. An affidavit in reply is filed by one Shri V.N.Chauhan, Under Secretary to Government of Gujarat, Home Department wherein also it is stated in paragraph 3 as under:-

"I respectfully say and submit that the present petition has been preferred against the order dated 8-5-96 issued by the District Superintendent of Police, Jamnagar by which the petitioner was placed in black list by the Government after considering the facts/allegations against the petitioner, which he was communicated vide letter dated 24-7-97."

3. It is clear form the said affidavit in reply that Circular dated 8-5-96 is issued by the Home Department. Learned AGP produced a copy of a Circular issued in other matter having similar facts whereby the Government after careful consideration decided to delete the word "blacklist".

4. Learned Single Judge did not find it proper to interfere with the Circular dated 8-5-1996 on the ground that it is a confidential order for the purpose of the office. That no prejudice is caused to the petitioner and therefore order cannot be said to be illegal. That it does not adversely affect the fundamental rights of the petitioner. That petitioner has failed to show that any of his rights is infringed.

5. It is true that the petitioner may not have been prejudiced and the fundamental rights of the petitioner may not have been adversely affected. That the communication may be an interdepartmental communication in the form of confidential instructions, but still the said instruction is required to have been based on reasonable grounds. No administrative decision can be taken to blacklist the name of a person without following the principles of natural justice. The petitioner only claims right of sending communication and grievance to the Government. The inter-departmental circular blacklisting the appellant deprives him of his right to send complaints and grievance. Even an administrative decision has to be taken on a reasonable ground. In the present case, we find that the Circular of blacklisting is totally against law and laid down procedure. For the aforesaid reason it cannot be allowed to be sustained.

6. In the facts of the case, we do not find any reasonable ground more particularly when the said power is exercised without giving any hearing to the petitioner. The Appeal is allowed. The Circular dated 8-5-96 is hereby quashed and set aside.

There shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(RAVI R. TRIPATHI, J)

[sndevu]